



Bureau for Private Postsecondary Education
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CITATION: ASSESSMENT OF FINE AND ORDER OF ABATEMENT

To: Yunxia Xiao, Owner
Jinshan Institute of Clinical Massage
5088 Mission Street
San Francisco, CA 94112

INSTITUTION CODE: 71847798

CITATION NUMBER: 2021156

CITATION ISSUANCE/SERVICE DATE: November 24, 2020

DUE DATE: December 24, 2020

FINE AMOUNT: \$ 50.00

ORDER OF ABATEMENT INCLUDED: YES

Christina Villanueva issues this Citation: Assessment of Fine and Order of Abatement (Citation) in her official capacity as Discipline Manager of the Bureau for Private Postsecondary Education (Bureau) of the California Department of Consumer Affairs.

CITATION

A Citation is hereby issued to Yunxia Xiao, Owner of Jinshan Institute of Clinical Massage (Institution) located at, 5088 Mission Street, San Francisco, CA 94112, pursuant to Business and Professions Code section 125.9; California Education Code (CEC) section 94936; and Title 5 of the California Code of Regulations (5, CCR) section 75020 for the violations described below.

BACKGROUND

On March 25, 2020, the Bureau issued Citation Number 1920262 for failing to submit the 2017 Annual Report. The citation is currently outstanding.

All institutions are required to submit a Student Tuition Recovery Fund (STRF) Assessment Reporting Form to the Bureau no later than the last day of the month following the close of the quarter.

Pursuant to CEC section 94923(a) The Student Tuition Recovery Fund relieves or mitigates economic loss suffered by a student while enrolled in an institution not exempt from this article pursuant to Article 4 (commencing with section 94874), who, at the time of his or her enrollment, was a California resident or was enrolled in a California residency program, prepaid tuition, and suffered economic loss.

The Bureau sends notifications/reminders to all approved institutions 30 days prior to close of each quarter.

As of November 24, 2020, the Institution has not submitted the STRF Assessment Reporting Forms for the 3rd quarter of 2017, 2nd quarter of 2018, 2nd quarter of 2019, and 2nd and 3rd quarters of 2020.

In addition, all institutions are required to pay annual fee within 30 days of the date on which the Institution originally receives its approval to operate and each year thereafter on the anniversary of the date of the original approval. An institution shall pay its annual fee in addition to any other applicable fees.

Pursuant to CEC section 94930.5 (g). effective July 1, 2018, the annual fee for each campus described in subparagraphs (A) and (B) of paragraph (1) of subdivision (d) shall be in an amount equal to 0.55 percent of that campus' total gross revenue derived from students in California, but not to be less than two thousand five hundred dollars (\$2,500) and not to exceed sixty thousand dollars (\$60,000) for each campus.

As of November 24, 2020, the Bureau has not received the late payment penalty for the 2020 calendar year from the Institution.

VIOLATION

#	Below you will find the California Education Code (CEC) and/or Title 5 of the California Code of Regulations (5, CCR code) section(s) of law you are charged with violating.
1.	<p><u>Violation:</u> 5, CCR Section 76130 (a-e)- Collection and Submission of Assessments <i>“(a) A qualifying institution shall collect the assessment from each student in an educational program at the time it collects the first payment from or on behalf of the student at or after enrollment. The assessment shall be collected for the entire period of enrollment, regardless of whether the student pays the institutional charges in increments.</i> <i>(b) A qualifying institution shall complete the STRF Assessment Reporting Form (Rev. 2/10) and remit it with the STRF assessments collected from students to be received by the Bureau no later than the last day of the month following the close of the quarter as follows:</i> <i>(1) April 30 for the first quarter,</i> <i>(2) July 31 for the second quarter,</i> <i>(3) October 31 for the third quarter, and</i> <i>(4) January 31 for the fourth quarter. If the due date falls on a Saturday, Sunday or State or federal holiday, the due date shall be extended to the next regular business day for the Bureau.</i> <i>If the due date falls on a Saturday, Sunday, or State or federal holiday, the due date shall be extended to the next regular business day for the Bureau.</i> <i>(c) The STRF Assessment Reporting Form shall contain the following information:</i> <i>(1) Total number of students who signed enrollment agreements for educational programs during the reporting period; and</i> <i>(2) Total number of students eligible for STRF who signed enrollment agreements for educational programs during the reporting period; and</i> <i>(3) The total number of students who signed their enrollment agreement during the reporting period, were eligible for STRF, and who made their first payment during the reporting period; and</i> <i>(4) The total number of students who signed their enrollment agreement in a previous reporting period, were eligible for STRF, and who made their first payment during the current reporting period; and</i> <i>(5) Total amount of institutional charges after rounding each student's institutional charges to the nearest \$1,000, for all eligible STRF students whose STRF assessment was collected in the reporting period; and</i> <i>(6) Current contact telephone number of the person preparing the form; and</i> <i>(7) A declaration dated and signed under penalty of perjury by the person preparing the form that the form and any attachments are true and correct.</i></p>

(d) In the event of a school closure, any collected assessments shall be remitted to the Bureau within seven days following the cessation of instruction.

(e) Submission of all prior reports and assessments required by this section is a condition of renewal.”

The Institution has failed to submit STRF Assessment Reporting Forms for the following quarters:

- Third Quarter for 2017;
- Second Quarter for 2018;
- Second Quarter for 2019; and
- Second and Third Quarters for 2020.

On October 2, 2017, the Institution was notified via mail at 7793 Finnhorse Way, Sacramento, CA 95828, that the STRF Assessment Reporting Form for the 3rd quarter of 2017 was due.

On June 18, 2018, the Institution was notified via mail at 7793 Finnhorse Way, Sacramento, CA 95828, that the STRF Assessment Reporting Form for the 2nd quarter of 2018 was due.

On June 24, 2019, the Institution was notified via mail at 7793 Finnhorse Way, Sacramento, CA 95828, that the STRF Assessment Reporting Form for the 2nd quarter of 2019 was due.

On June 18, 2020, the Institution was notified via mail at 7793 Finnhorse Way, Sacramento, CA 95828, that the STRF Assessment Reporting Form for the 2nd quarter of 2020 was due. On July 29, 2020, the Institution was notified via email that the STRF Assessment Reporting Form for the 2nd quarter of 2020 was due.

On September 18, 2020, the Institution was notified via mail at 7793 Finnhorse Way, Sacramento, CA 95828, that the STRF Assessment Reporting Form for the 3rd quarter of 2020 was due. On November 10, 2020, the Institution was notified via email that the STRF Assessment Reporting Form for the 3rd quarter of 2020 were due. As of November 24, 2020, the Bureau has not received the STRF Assessment Reporting Form from the Institution.

On October 2, 2020, the Institution was notified via email that the STRF Assessment Reporting Forms for the 3rd quarter of 2017, 2nd quarter of 2018, 2nd quarter of 2019, and 2nd quarter of 2020 were due.

On October 16, 2020, the Institution was notified via email that the STRF Assessment Reporting Forms for the 3rd quarter of 2017, 2nd quarter of 2018, 2nd quarter of 2019, and 2nd and 3rd quarter of 2020 were due. As of November 24, 2020, the Bureau has not received the STRF Assessment Reporting Forms from the Institution.

Order of Abatement:

The Bureau orders that the Institution submit the delinquent STRF Assessment Reporting Forms with the STRF Assessments collected from students for the quarters listed above. The information provided shall comply with “Record Keeping Requirements” Pursuant to 5, CCR section 76140.

Assessment of Fine

The fine for this violation is \$50.00

2.

Violation:

5, CCR Section 74006(a) and (b) - Annual Fee

“(a) An institution's annual fee is due within 30 days of the date on which the institution originally receives its approval to operate and each year thereafter on the anniversary of the date of the original approval. (b) An institution shall pay its annual fee in addition to any other applicable fees.”

CEC Section 94930.5 (g)- Fee Schedule

“(g) Notwithstanding subdivision (d), effective July 1, 2018, the annual fee for each campus described in subparagraphs (A) and (B) of paragraph (1) of subdivision (d) shall be in an amount equal to 0.55 percent of that campus' total gross revenue derived from students in California, but not to be less than two thousand five hundred dollars (\$2,500) and not to exceed sixty thousand dollars (\$60,000) for each campus.”

CEC Section 94931(b)- Late Payment

“(b) A fee that is not paid on or before the 90th calendar day after the due date for payment of the fee shall be subject to a 35 percent late payment penalty fee.”

2020 Late Payment Penalty

The Institution has failed to pay its late payment penalty fee for calendar year 2020.

On June 3, 2020, the Institution was notified, (Invoice # 900350000) via mail at 7793 Finnhorse Way, Sacramento, CA 95828, stating that the annual fee for calendar year 2020 was due on July 01, 2020.

On August 17, 2020, the 1st Delinquency Notice (Invoice # 900351957) was sent via mail at 7793 Finnhorse Way, Sacramento, CA 95828, stating that the annual fee for calendar year 2020 was due on July 01, 2020.

On October 15, 2020, the 2nd Delinquency Notice (Invoice # 900351957) was sent via mail at 7793 Finnhorse Way, Sacramento, CA 95828, stating that the annual fee for calendar year 2020 was due on July 01, 2020.

On November 6, 2020, the Bureau received the 2020 annual fee in the amount of \$2,500.00. However, the late payment penalty fee was not included in the submission.

On November 10, 2020, the Institution was notified via mail at 7793 Finnhorse Way, Sacramento, CA 95828, that a balance of \$875.00 was due for the late payment penalty fee.

As of November 24, 2020, the Bureau has not received the late payment penalty from the Institution.

Order of Abatement:

The Bureau orders the Institution to pay all late payment penalty fees in accordance with CEC section 94931(b).

Assessment of Fine

The fine for this violation is \$00.00

TOTAL ADMINISTRATIVE FINE DUE: \$50.00

ASSESSMENT OF A FINE

In accordance with CEC section 94936; and 5, CCR sections 75020 and 75030, the Bureau hereby orders this assessment of fine in the amount of **\$50.00** for the violations described above. **Payment must be made, to the Bureau, within 30 days from the date of service of the Citation.**

COMPLIANCE WITH ORDER OF ABATEMENT

In accordance with the provisions of CEC section 94936 and 5, CCR section 75020 the Bureau hereby issues the order(s) of abatement described above. **Evidence of compliance with the order of abatement must be submitted, to the Bureau, within 30 days from the date of service of the Citation.**

APPEAL OF CITATION

You have the right to contest this Citation through an informal conference with the Bureau; and/or through an administrative hearing in accordance with Chapter 5 (Commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If you wish to contest this Citation, you must submit the 'Notice of Appeal of Citation – Request for Informal Conference **and/or** Administrative Hearing' form (enclosed) within 30 days from the date of service of the Citation. *If you do not request an informal conference **and/or** an administrative hearing within 30 days from the service of the Citation, you will not be able to request one at a later time.*

Unless a written request for an informal conference **and/or** an administrative hearing is signed by you and delivered to the Bureau by **November 24, 2020**, you will be deemed to have waived or forfeited your right to appeal this matter.

EFFECTIVE DATE OF CITATION

If you do not request an informal conference and/or an administrative hearing, this Citation shall become effective on **November 24, 2020**. Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **December 24, 2020**. Your payment of the administrative fine shall not constitute an admission of the violation(s) charged.

If a hearing is requested, you will not be required to comply with this Citation until 30 days after a final order is entered against you.

Payment of the administrative fine and/or written request for appeal must be mailed to:

Nicole Mitchell, Discipline Citation Program
Bureau for Private Postsecondary Education
1747 N. Market Blvd., Suite 225
Sacramento, CA 95834

Failure for an applicant or institution to abate the violation(s) listed above or to pay the administrative fine within the time allowed may result in denial of an application for an approval or renewal to operate; disciplinary action, and/or collection action. The Bureau will promptly take all appropriate action to enforce this Citation and recover the civil penalties prescribed therein or found to be due after a hearing.

CONTACT INFORMATION

If you have any questions regarding this Citation, or desire further information, please contact Nicole Mitchell, Citation Analyst, at (916) 574-8995 or Nicole.Mitchell@dca.ca.gov.

“Original Signature on File”

“11/24/2020”

Christina Villanueva
Discipline Manager

Date

Enclosures

- Applicable Laws Violated
- Statement of Rights: Appeal Process Information Sheet
- Notice of Appeal of Citation: Request for Informal Conference and/or Administrative Hearing
- Payment of Fine – Waiver of Appeal
- Declaration of Service by Certified and First-Class Mail